DOCUMENT RESUME

ED 374 536 EA 026 112

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TITLE Teacher Tenure Reform: Problem Definition in Policy Formulation.
PUB DATE Apr 94
NOTE 46p.; Paper presented at the Annual Meeting of the American Educational Research Association (New Orleans, LA, April 4-8, 1994).
PUB TYPE Speeches/Conference Papers (150) -- Reports - Research/Technical (143)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Conflict Resolution; Contracts; *Educational Policy; Elementary Secondary Education; Lobbying; *Policy Formation; *Political Influences; Political Issues; *Politics of Education; Problem Solving; *State Legislation; Teacher Rights; *Tenure; Unions
IDENTIFIERS *Colorado

ABSTRACT

When Colorado's Tenure Reform Bill, House Bill 1159, was signed into law, the work of teachers was not significantly changed. However, the law did make some significant inroads in the work of administrators and streamlined the due process accorded to teachers in the event that dismissal becomes necessary. This paper addresses whether the legislative process worked in 1990 to bring about a policy that significantly changed education, and whether the problem-definition step in the policy-formulation process was the key piece to facilitating effective policy. Drawing from John Kingdon's (1984) conceptual framework of policy formulation, the paper examines the evolution of the tenure problem, the intensification of the problem, the opening of the policy window, the actions of key players, special interest agendas, the formulation of the policy, and finally, the lessons that can be learned from the process. A conclusion is that, in the past, policy-formulation models described policy as a process comprised of four steps: (1) general awareness; (2) generation of alternatives to solve the problem; (3) formulation of a solution; and (4) justification of the solution. Findings of this study suggest that the success of this model depends on several critical aspects. A revised problem-definition policy-formulation model and its specific stages is outlined. (LMI)

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ED 374 536

Teacher Tenure Reform: Problem Definition in Policy Formulation

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Paper Presentation

Division A

Annual Meeting of the American Educational Research Association

April 5, 1994

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Teacher Tenure Reform: Problem Definition in Policy Formulation

Introduction

In this age of dissatisfaction with the nation's public schools, criticism appears to come from every quarter. In the past ten years, federal and state legislators have demanded school reform as a result of declining test scores and poor student achievement. Thus, more and more policies in the areas of national standards, national tests, schools of choice, licensure, merit pay, and teacher evaluation are all attempts at changing the work of teachers primarily because teachers and teaching work are at the center of reform thought, and getting the right teachers in the classroom has become a central goal in education reform (Murphy, 1991). Although changing the work of teachers clearly will bring about school reform, legislated policy, however, has traditionally had little or no effect in bringing about that change (Bailey & Mosher, 1968; Berman, 1966; McLaughlin, 1975; Berman & McLaughlin, 1975).

Much of the dissatisfaction with the work of teachers seems to stem from the public's perception that teacher tenure prevents school administrators from dismissing incompetent teachers and, once they are in the classroom, they are there for life. In 1990 the state of Colorado eliminated teacher tenure. The significance of this event was not that Colorado eliminated it, but it was the unique process of policy formulation—the use of problem definition in the process—that merits investigation.

Purpose of the Study

When Colorado's Tenure Reform Bill, House Bill 1159, was signed into law, the work of teachers was not significantly changed. However, the law did make some significant in-roads in the work of administrators and streamlined the due process accorded to teachers in the event that dismissal becomes necessary. This paper will address whether the legislative process worked in 1990 to bring about a policy that made a significant change in education, and whether the problem definition step in the policy formulation process was the key piece to bringing about effective policy. To that

end, this paper will examine the evolution of the tenure problem, the intensification of the problem, the opening of the policy window, the actions of the key players, special interest agendas, the formulation of the policy and, finally, the lessons that can be learned from this policy formulation process. More specifically, the paper will demonstrate how the problem was defined and how the solution was constructed. The paper will show that the policy formulation process was both purposeful and intended and it was not a process that bubbled up from a policy primeval soup.

Methods

Data for this study were gathered from interviews with participants and observers of the process, from personal notes generated by the participants and observers, and archival documents that recorded many of the events that took place during the process of formulating House Bill 1159.[1]

Eleven participants were interviewed in the process. They included representatives from the special interest groups: teachers, administrators, school board members, the Governor's Office, and the state legislature. Each participant interviewed was present during the entire process while the bill was being formulated. Observers in the process acted as behind-the-scenes special interest groups who traditionally applied pressure to the process or could provide an historical perspective of the problem as it developed over time. These observers had first-hand knowledge of the history of the tenure reform processes in Colorado and/or closely monitored the policy process.

Approximately 187 written documents were used to determine the chronology of events and the interactions of the players during the process. Archival documents included the drafts of amendments, the transcripts of testimony by experts before the

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[1]See a complete explanation for the process and methods used in this study in Elrod, 1993.

House State Affairs Committee, the House and Senate journals, newspaper accounts dating back to 1967, and research documents provided by the Legislative Council, the research arm of the General Assembly. Participants in the process also shared notes, memos and letters that helped establish the accuracy of the data and the chronology of events.

Three over-lapping phases of data collection were used. Phase I: Review of policy formulation models, exploratory interviews to determine critical sources of information, development of the conceptual framework, testing applicability of the conceptual framework through preliminary interviews, review of documents, establishing chronology of events. Phase II: Establishing interview protocols, scheduling interviews with participants, semi-structured interviews with participants, transcribing verbatim all taped interviews, collecting archival documents, personal notes and memos. Phase III: Review of archival documents, personal notes and memos; documentary and interview analysis.

Data were classified according to public perception of tenure, policymakers' agenda, issues of special interest, satisfaction with the policy, policy entrepreneurs, bargaining v. persuasion and the decision making process. The classifications of data were grouped according to either perceptions or process.

Although the data were gathered from multiple sources of information and were grouped and classified according to perceptions and processes, there are limitations. This study examined a single instance of education reform policy over a brief period of time; the theoretical models used to direct the study were based on federal, not state, policy formulation processes; the study focused only on the process used to formulate House Bill 1159 and not on the processes used to reform tenure prior to 1989; the perceptions of the participants are limited and personally unique; and the study attempted to bring into focus those images that were most dominant in the picture amid voluminous sources of information.

Conceptual Framework

This study, based primarily on the work of John W. Kingdon (1984), came from the notion that the process of policy formulation is muddled; a solution is developed and then is attached to a problem that can be linked to the solution; the process uses the involvement of the special interest groups in a variety of ways; and, finally, policy formulation is controlled by a strong, effective Executive Officer (Anderson, 1983; Cohen, March & Olsen, 1970; Kingdon, 1984; Lindblom, 1959; Malen & Hart, 1987; Polsby, 1984). Most policy processes seem to be quick fixes to a perceived problem that lacks clear articulation. The intent of the policy process is to create a solution that seems like a good idea at the time.

Janet A. Weiss (1989) examined problem definition in her study regarding the reduction of federal government paperwork. Problem definition is generally accepted as an initial important first step in the policy cycle and one that lays the foundation for the development of the policy and eventually the implementation and evaluation of the policy (Brewer & deLeon, 1983; Kingdon, 1984; Pressman & Wildavsky, 1984; Weiss, 1989). Problem definition is not simply a general description of the perceptions endemic to the special interest groups, it is a complete account of "the causes and consequences of some circumstances that are deemed undesirable, and a theory about how a problem may be alleviated" (Weiss, 1989, p. 97).

According to Kingdon (1984), policy formulation typically comes from a process where many ideas float around in a kind of policy primeval soup, bumping into one another, combining and recombining and forming new ideas. Policy entrepreneurs generally keep their policy ideas at the ready waiting either for a problem to float by they can attach the policy to, or a development in the political process that provides an environment receptive to their proposal. The process is generally messy and without specific, sequential form. Three events, however, need to come together to provide an open window of opportunity wherein a policy entrepreneur can act. At the confluence

of the problem stream, the policy stream and the political stream, a window of opportunity opens and the proposal is put on the political agenda (Kingdon, 1984).

In the problem stream, problems arise on the political agenda as a result of interest group agendas, political crises, budget issues, program responses, and the normal workings of the political system. What is often missing in the problem stream is clear definition of exactly what the problem is. Problem definition must be carefully done before policy alternatives can be constructed (J. Weiss, 1989). Problem definition can sometimes create political realities and at other times must accommodate political realities. Often there is a mismatch between what is and what ought to be in the ideal state (Lindblom, 1959). Also, policy analysts sometimes cannot identify criteria to determine an evaluation as to what constitutes a good policy definition. Further, categorization problems arise as a result of different people seeing the problem differently. Policy makers tend to maintain old classifications and categories for problems long after the environment and circumstances have changed (Kingdon, 1984).

Within the policy stream, specialists will often bring up agenda items. If the community is tightly knit and agrees, the process goes well. If, however, the community is fragmented, the political agenda is reduced to comparatively few items and it may take years before an idea gains acceptance. If proposals are to survive within the policy stream, they must meet the criteria of survival—technical feasibility, value acceptability and anticipation of future constraints. Eventually a bandwagon effect occurs and the proposal becomes more prominent on the political agenda (Kingdon, 1984).

National mood swings, election results, administrative and ideological changes, and special interest campaigns make up the political stream. Politician's perceptions and consensus among organized political forces provide support for a proposal on a political agenda. Usually agreement is reached through bargaining rather than by

persuasion and all parties are working to protect their special interest (Kingdon, 1984).

Windows of opportunity open and close rather quickly and coupling happens when a politician is ready to act and has a viable proposal ready to attach the problem as it comes by. The proposals chances of getting on the agenda increase greatly if the problem, the proposal and the political receptivity are in alignment. It is even better when spillover exists, that is, one idea can work in more than one place to solve a problem (Kingdon, 1984).

Problem Evolution

Previous to 1989, legislative practice that fostered the wave of tenure reform in Colorado is best described as "organized anarchy" that has three general properties, "problematic preferences, unclear technology and fluid participation" (Kingdon, 1984, p. 89). People tended to act without clearly defined goals; they operated by trial and error; they tried to learn from experience; and they drifted in and out of decisions so the boundaries of the organization were often fluid and unclear. Legislators appeared to be unclear as to the meaning of tenure. The proponents of tenure reform bills changed over a period of time. Due process, the limitations of dismissal for just cause, and the criteria for satisfactory performance surfaced as important issues in tenure reform, but how they should be resolved into policy was often unclear.

The 1967 Tenure Act came under fire shortly after its passage because public perception was that tenure kept incompetent teachers on the job, that tenure prevented school districts from taking appropriate action when there was a need for a reduction in force, that tenured teachers reduce their productivity over time, that tenure guaranteed teachers jobs for life, and that tenured teacher dismissal was costly and impossible to obtain (Belsches-Simmons & Bray, 1985; Cadwallader, 1983; Legislative Council, 1989; Lockard, 1973; Stern, 1988). Teachers, however, see that tenure protects the teacher from capricious dismissal, that it guarantees academic freedom, that it carries the blame for poor administrative practice during dismissal, and that it provides due

process and security rather than amassed wealth (Belsches-Simmons & Bray, 1985; Cadwallader, 1983; Legislative Council, 1989; Lockard, 1973; Stern, 1988). Experts, policymakers, public opinion polls and educator surveys indicate the arguments regarding tenure in Colorado seem to have narrowed to the issues of job protection, costs, and public perception as being the main reasons for a need for tenure reform legislation (Adkins, 1990; Bledsoe, 1990; Caplin, 1990b; CDE Tenure Study Committee, 1987; Difford, 1991; Fitzgerald, 1992; Fox, 1991).

Problem Intensification

Kingdon (1984) described timing and public saliency as critical to issues rising on the policy agenda. The tenure issues incubated over a long period of time and the issue would bubble up from time to time. The more the media focused on it, the more frequently it appeared on the policy agenda.

In the eleven years between 1979 and 1990, seven attempts were made by the legislature to reform tenure. Roadblocks to the process were thrown up primarily by teacher groups, however, when teachers brought forth a proposal for tenure reform, administrators could not live with the teachers' suggestions either. By the late 1980s, public demand for reform began to intensify. Ultimately, policymakers, educators, and even the Governor did not believe tenure was a very critical educational issue, but they all thought the need for tenure reform could become a more serious block to significant school reform (Adkins, 1990; Bledsoe, 1990; Difford, 1991; Fitzgerald, 1992; Fox, 1991; Morris, 1992; Tipton, 1992). Governor Roy Romer felt that public perception was critical to tenure reform, but for different reasons. He felt tenure was not the most significant issue in school reform, but that the public felt it was:

> I think the governor felt very strongly, and he told the legislature this, that he wouldn't put tenure reform in the top three of the most pressing restructuring issues, but he felt strongly that the public would. The perception that was out there was that there were a lot more incompetent teachers than there actually are.

> Everybody has at least one bad experience that gets magnified in neighborhoods and school communities. And that people perceived that teachers had employment for life. (Fitzgerald, 1992)

The teachers agreed with the perception that tenure was a barrier to tenure reform because those outside of education did not understand what it was. Dan Morris, CEA president, explained,

> Because the issue of tenure and the word tenure had become almost a barrier around restructuring and change of what needed to occur, people misunderstood the term tenure and what it meant and didn't mean. Individuals outside of education assume it means life long employment—it doesn't. It simply means due process. (Morris, 1992)

John Tipton, Executive Director of the Department of Revenue and chair of the Tenure Task Force, summarized the several different views held by business, the parents, the teachers and the Governor. The perception of tenure for most was the reality—even if tenure did not exist as the public perceived it to be.

> The word tenure had become almost an albatross for getting other things done in education. You can't get it done because you can't get rid of bad teachers. Once they're there three years, they've got tenure. And once they have tenure, you can never get rid of them. It had nothing to do with "tenure" it was the perception that it was kind of the "iron rice bowl"—it would never break once you got it. (Tipton, 1992)

Further, pressure from the legislature was heating up. By the end of the 1970s, a new wave of legislators appeared on the horizon. They were people who came in to change the system.

> . . .by the end of the 70's we had the makings of what came to be known as the "House Crazies." Ever hear of that name? And I think they fostered this and it wasn't anything that was secret. They were calling them the House Crazies.

> They were people who came in to change the system. And they were very conservative. And they were very much in tune with the need to get rid of Carter and the pressures of the NEA. So tenure was a logical thing for them to jump on in those years. It was people like Steve Durham from the Springs, Tancredo, and a number of others. (Frazier, 1992)

This group of Republicans led the charge to reform tenure. They also had the support of the previous Democratic governor, Richard Lamm. The House Crazies believed that tenure was the epitome of union control and that the need for tenure reform was the single biggest issue in education at the time. Other moderate Republicans refused to take a position on the issue. Lamm and the House Crazies wanted a review of tenure. Cal Frazier, the Commissioner of Education, wanted a committee to study the issue and see if agreement could be reached. This committee was put in place, told to study the issues and come back with alternatives. The committee work was productive and the report raised significant questions and posed some alternatives (Frazier, 1992). No agreement or significant directive on tenure reform was forthcoming from either the Governor or the legislature as yet.

In 1985, 1986, 1987, and 1988 the legislature had put tenure reform bills on the agenda. Every year the bill was defeated, but each year the battle lines on tenure were more clearly drawn. Each special interest group identified its own issues, limitations and areas of agreement.

Not only had the problem of tenure intensified, but it also met the criteria for survival: technical feasibility, value acceptance within the policy community, tolerable cost, anticipated public acquiescence, and a reasonable chance for receptivity among elected decision makers (Kingdon, 1984). Those ideas that lacked technical feasibility were binding arbitration, multiple year contracts and grandfathering teachers who already had tenure into the bill. There was no doubt that the specialists within the

policy community valued tenure reform by 1989, but they didn't know how to construct a solution that was satisfactory.

Policy Window Opening

House Bill 1159 came at a time when the "stars were right" —other states were just beginning to look at ways to revise tenure (Adkins, 1990; Fox, 1991). The Colorado Association of School Executives (CASE) reported a phenomenon of "me-too-ism" in the General Assembly. With President Bush's education summit, the Gates Conference, Governor Romer's intervention in the process and many other educational reforms going on in Colorado and nationally, the climate in 1990 seemed right for another attempt at tenure reform (Adkins, 1990; Difford, 1991; Fox, 1991; Fox, February 12, 1990).

By the summer of 1989, Phil Fox, the lobbyist for both CASE and the Colorado Association of School Boards (CASB), began sending information to Representative Jeanne Adkins regarding tenure reform.

> I had been working with her for about six months very quietly and she had told that she was interested in tenure. I started shoveling her every piece of documentation I could find and just kind of told her what we thought of tenure and so on. And she told me very quietly she was going to carry a bill. It was that one that a teacher could be fired for any good and just cause. (Fox, 1991)

The administrators and school board members were becoming more and more committed to the need for tenure reform. Adkins, as a freshman legislator, indicated she might be willing to carry a bill on the idea (Adkins, 1990; Difford, 1991).

An amendment to the Colorado Constitution to eliminate tenure was also being investigated as a possible alternative to the traditional tenure reform initiatives. The Speaker of the House, Carl "Bev" Bledsoe, Steve Durham and Cliff Dodge, Denver businessmen, at least one of whom had already been associated with the previous attempts at tenure reform and was once closely aligned with the "House Crazies"

initiated this proposal (Adkins, 1990; Bledsoe, 1990; Fox, 1991; Frazier, 1992). Fox explained how the whole idea came about:

> First I remember Speaker of the House called me fall of '89 sometime. Said I'd like you to come over to my office this afternoon if you're available. I said, "For you, Mr. Speaker, I'm available." So, whatever I was doing, I dropped it like a hot potato and shuttled across the street to the Speaker's office. . . .And I met Bob (the Speaker's son and member of the school board in Kit Carson). . . Bob said to me, "I'd like to talk to your employers about tenure. I said, "Well, what have you got in mind?". . .Bledsoe said, "Look, I know there's going to be a bill out about tenure. . .If the legislature doesn't do anything by say late April, then I want to sponsor a petition drive to abolish tenure. (Fox, 1991)

To make an amendment to the Colorado Constitution requires the circulation of petitions to obtain approximately 50,000 legal signatures and a great deal of time and money. Bledsoe and Fox were concerned about the Colorado Education Association (CEA) because CEA would bring in the NEA who would outspend the coalition ten to one to defeat the amendment. Therefore, this secret coalition decided instead to begin a "whisper campaign" to indicate to the teachers that tenure reform was so serious, if taken to the vote of the people, tenure would be removed from the law (Adkins, 1990; Bledsoe, 1990; Difford, 1991; Fox, 1991; Seymour, 1992).

Meanwhile in the policy stream several alternatives were suggested to solve the problem of tenure reform: repeal the Tenure Act, replace tenure with a series of contracts, change the title of the act, improve evaluation procedures, make unsatisfactory performance grounds for dismissal, replace the hearing process with an arbitration process, implement a statewide voluntary career ladder, change provisions concerning cutbacks, change the salary schedule policies. Some of the suggestions might have solved a part of the problem and other suggestions would have created many more problems.

On January 12, 1990, Jeanne Adkins introduced House Bill 1159 on the floor of the House of Representatives (*House Journal*, 1990). Among the provisions of the bill were: probationary teachers could have contracts for three years, but could be refused renewal for any reason and had no appeal rights; contract teachers had three-year contracts, but the school board could renew or not renew at the end of those three years; notice of renewal had to be in writing, but failure to notify meant the teacher was renewed for one year only; tenured teachers could retain their rights; grounds for dismissal were limited by arbitrary and capricious action and prohibition against unlawful action; teachers were allowed an informal hearing and no record would be kept of it; and a separate salary schedule would be given to contract teachers, but tenured teachers could opt into it as it would take their experience in another district into account. No one liked this bill. Adkins said she wrote the bill to get people to come to the table to talk about it (Adkins, 1990).

Key Player Action

Kingdon and others have presented the key players as most critical to the policy innovation process. At the federal level, people both inside and outside the government are critical to the process. The most common and most powerful player is the Executive Officer. In this study we will find no exceptions to this general premise. However, there did exist one key player whose actions within this process were so unusual that they are not described in the policy literature—the disinterested policy process facilitator. Within the boundaries of this case study, three people will be identified as key players: Governor Roy Romer, the Executive Officer and power broker; John Tipton, the Executive Director of the Department of Revenue, who took the role of disinterested policy facilitator; and Jeanne Adkins, a member of the House of Representatives who became to the policy entrepreneur.

The Entrepreneur

> I was sitting in the basement of the capitol before the session started with the Speaker, Representative Schauer, and a lobbyist when the Governor came in and got a cup of coffee and sat down with us. He was talking about education. He was talking about needing to maybe address the tenure issue because public perception was overwhelming that the government was not doing anything about this. The Speaker looked at the Governor and said, "This young lady has a bill that could address this." At that point we started talking about what the bill did and how it did it. (Adkins, 1990)

It was at this point that a special relationship was established between Representative Jeanne Adkins, House Speaker Bledsoe and Governor Romer. Although Jeanne Adkins worked hard to get this bill through the legislature and deserves most of the credit, she did not do it alone. Bledsoe became her mentor and Romer as the Executive Officer became the power broker.

Both Adkins and Bledsoe knew they also had the support of the Governor at that time. Therefore, as soon as the bill was read the first time, Adkins asked the Majority Leader for a postponement on the bill to allow time for the governor to issue an executive order to create a Task Force to study the bill and come back with recommendations (Adkins, 1990; *House Journal*, 1990). This move provided approximately two weeks before the bill would come to the floor of the house again. Adkins reported to the Governor how much time they had.

Although Adkins intimated that her actions may have been somewhat manipulative by creating a bill that nobody liked, she also believed that it was "an opportunity for administrators, teachers, school boards and parents to have in-put. . ." (Adkins, 1990). She said it was never her intention not to negotiate. She wanted a bill that all could agree on and that, she believed, is why the process worked. Others who worked with Representative Adkins on the bill believe she really was the workhorse in

the process of getting the bill written and passed through the legislature

> That was all a tightrope in not wanting to upstage Representative Adkins because the compromise that came from the task force was grafted onto her bill. She was the absolute hero in this because she was a smart enough politician and was concerned enough about really wanting to do the right thing—the value of a consensus decision. That she wasn't willing to take these ideas as her own and take the political flack from her committee. . . .It couldn't have worked without her leadership in this. She had a lot of good help, she counted votes and she had a lot of help from Bledsoe. (Fitzgerald, 1992)

Even though Adkins was very good, she could not, however, have pulled all this together single-handedly. She needed the Executive Officer, Governor Romer, to exert his influence and his power.

The Executive Officer

In 1990 Romer was re-elected on an education platform and was originally supported by the teachers of Colorado when he ran for Governor in 1988. Governor Romer , as the Executive Officer, ordered the formulation of the Tenure Task Force. According to Fitzgerald,

> It was really fast-tracked. The governor didn't decide, I think, until January for his state of the state address that he really wanted to basically address it. It didn't leave a lot of time to pull a package together. He decided to go with a task force approach that would have representatives from each group. They were to come up with recommendations to give to him and the legislature. (Fitzgerald, 1992)

Because the timing was so short, Adkins believed that a tenure bill would come late in the session, but would die again because there was no reason for CASB, CASE, the Colorado Education Association (CEA) and the Colorado Federation of Teachers (CFT) to come together to talk about it (Adkins, 1990).

> It was a late bill, a new bill. . .that scared the bejesus out of the CEA. . . .We never called a vote on it and frankly we only had 31 votes. CASE. . .and CASB wanted to have the loosest of all tenure laws where a teacher could be fired for any good and just cause. And the bill got out of committee and it was just terrible. Got out of committee on a straight party line vote. (Fox, 1991)

The timeline of two weeks after the first reading was indeed short. The original Adkins bill was very beneficial to the process because it gave the members of the task force a worst-case scenario to begin with in the hopes that the process would move to something more positive (Fitzgerald, 1992).

> The Governor let each group make recommendations for who should be on the task force. And then he tried to balance it in terms of racial, gender representation in the community. So that it would be a group that basically represented Colorado. . . .I think he [Romer] was also interested in trying to structure the process so that teachers were part of the process and not part of the problem. He believed that teachers were the very most critical players. He saw the teachers as the key to school reform, that they could expect more of kids, teach in a way that got more from kids. (Fitzgerald, 1992)

The leadership in the House and Senate selected the legislative representatives (Adkins, 1990; Fitzgerald, 1992). Romer appointed John Tipton, Executive Director of the Department of Revenue, and Alexander (Sandy) Bracken, Director of Public Relations from Ball Aerospace, as co-chair facilitators for the task force.

On Tuesday, February 6, 1990, from 10:00 to 11:00 a.m. Romer met with Tipton and Bracken to discuss how the Task Force would proceed. Specifically, Romer gave the co-chairs some direction about their roles as facilitators and his position on the issue of tenure. Once he had given the Task Force its charge, Romer backed out of the process. He remained on the sidelines as cheerleader, but he had put the process in the hands of someone he knew would do the job in getting the group to

consensus and still keep his directive of finding a fair due process. Romer also kept in close contact with Tipton and appointed two of his staff as part of the Task Force who could work closely with the process and keep him informed of what was happening (Fitzgerald, 1990c; Fitzgerald, 1992; Tipton, notes; Tipton, 1992).

The Facilitator

> Tipton did a marvelous job. . . .Tipton is a lawyer in private practice. Roy Romer hired him to come in and be his Director of Revenue. And Tipton was the kind of facilitator—and he's a little bald guy and he's brilliant! He came in and he was a neutral party to everybody. He wasn't tainted or biased. Wasn't a school board member or a teacher or a principal, but, boy, did he orchestrate the hell out of that! (Fox, 1991).

The Governor asked Tipton to chair the Tenure Task Force for two reasons. First, he was pleased with Tipton's earlier work.

> I have 96 offices around the state so I traveled to every office, and asked people for their ideas and have continued to ask. Because the people who are out there know better than the people here how to run the job. So I think the Governor has seen that and the department has been held out as a model of how state government should be run over the last four years. So I think what he wanted was the same process here—collaborative, participatory problem solving type of an arrangement. (Tipton, 1992)

Second, Tipton chaired the Task Force on behalf of the Governor as the Director of the Department of Revenue only if it could be done "in a short time frame, under controlled circumstances where we got all the players together and actually made some decisions" (Tipton, 1992). Tipton's role was to keep the coalition together throughout the entire process and to orchestrate a process which would eventually bring the group to consensus on both the language and the content of the bill. He had no significant interest in what the content of the bill would be. He did, however, lend his expertise as

a lawyer to assist in creating language in the bill that would help solve problems and create a policy that was workable within the court system.

Special Interest Agendas

The policy literature describes the nature of political conflict within the policy formulation process. "Some innovations generate little public or political opposition, others a great deal" (Polsby, 1984, p. 14). The anticipation of political opposition was evident early in the process with the "whisper campaign" to get a Constitutional amendment on the ballot. Furthermore, the Task Force was a forced meeting where traditional educational "enemies" were brought to the table with the charge that they were to work together to get a proposal they could all agree to.

The Tenure Task Force was scheduled to meet in the Summit Conference Room at the Scanticon Hotel beginning at 6:00 p.m. on Friday, February 16, 1990 (Tipton, notes). Governor Romer was there to begin the process and appeared once or twice over the course of the weekend. He was there to speak to the group as a kick-off for their process (Fitzgerald, 1990c; Morris, 1992; Tipton, 1992). It was at this retreat that the Task Force began to work through the consensus process.

In preparation for the work on the weekend of February 16, Tipton had gathered all the special interest groups' proposals for tenure reform (Fitzgerald, 1990c; Fitzgerald, 1992; Seymour, 1992; Tipton, 1992). Even though the Governor mandated the Task Force, there was no guarantee that the special interest groups would cooperate with the mandate:

> Not everybody there was a willing party. There were some reluctant parties. . . there were some concerns that if this was a solution that everybody agreed to, it wouldn't necessarily be a watered down solution. Some had a concern as to whether the governor, given his political ties to CEA. . .could really be a neutral person. (Fitzgerald, 1992)

Throughout the entire process the role of the CEA was subject to much conjecture.

CEA's long time alignment with the Governor politically was well known. CEA had always refused to support any kind of tenure reform. Therefore, it was hard to believe CEA would enter the process willingly:

> So we agreed to enter into the Task Force. . .to make it something that was positive for classroom teachers instead of something negative for classroom teachers. And that's why we did it. We would have continued to kill House Bill 1159 in its original form no doubt about it. It was terrible. It would have been year to year contracts for everyone in the state. It would have been a significant step back. . . .the process was totally different [and] has not been replicated, but it might be in the future where all the parties involved had to come together in the same room and agree. That was significant—you had legislators, teachers, business people, superintendents, and parents. And that just doesn't normally occur. (Morris, 1992)

This coalition came together because the Governor ordered it. Some special interest members had no need to negotiate. Some came out of interest to see what would happen, but most had agendas they wanted to promote regarding teacher tenure.

Additionally, Tipton and Bracken met with each of the stakeholders to find out what they were dealing with before the work of the Task Force began. The intent was to see how close in consensus each stakeholder was with the others, how much Tipton would need to be directly involved, and where the "hot button" issues were so he could steer discussion away from those if he needed to (Tipton, 1992; Tipton, notes).

Administrators and school board members were the first to bring tenure reform to Adkins' attention because they felt generally speaking that below average teachers could not be terminated, dismissals were costly, administrative hearings were complex, probationary teachers did not have an opportunity to improve, and administrators were unable to evaluate critically. One of the significant concerns was whether probationary teachers could be given the reasons for dismissal without creating a property right or a

cause for action. Tipton decided to allow for that concern in the statute,

> Part of it helps to be a lawyer. There are certain things in your background as you practice such as this is a property right or this is a privilege. So you find ways based on a whole variety of experiences. And I raised the question, what happens when they claim this is a property right? There's a U.S. Constitutional provision against taking a property without due process. And a state constitutional provision rather than a privilege. If a probationary teacher claims it is a property right, then you have all kinds of legal issues. How do you get rid of those issues, you have to do it statutorily. (Tipton, 1992)

The administrators perceived giving reasons to probationary teachers as a concession to teachers, CEA perceived this concession as a significant gain to their special interests, and the legislators perceived it as mutual concessions to reach agreement (Adkins, 1990; Difford, 1991; Fox, 1991; Morris, 1992; Tipton, 1992). The resolution of the issue, however, was satisfactory for the administrators because of a clause that has come to be known as the "self-destruct clause." If the courts rule that a property right exists because probationary teachers are given reasons for dismissal, then the clause is immediately repealed (Adkins, 1990; Fitzgerald, 1992; Tipton, 1992). In return for the cost and time efficiency concessions, the administrators and school board members had to agree that the bill's provisions would apply to administrators as well as teachers.

Even though CASE disliked the idea of administrators being in the same boat as the teachers, the association agreed to place the responsibility of effective teacher and administrator evaluation firmly on the shoulders of the direct supervisor. The school district superintendent is now responsible for making the recommendation to the school board for dismissal of any certificated employee:

> It puts the ball in our [administrators'] court. We've bitched for years you can't get rid of tenure teachers. . . .People get dismissed because they're [disliked] or

unpopular and it put the onus on administrators and we agreed to that. (Fox, 1991)

Although CEA came to the Task Force to support tenure reform, throughout the policy formulation process the association had a credibility problem with their Task Force peers. No matter what they said or did during the process, others read the CEA in general as being self-serving and uncooperative. Most did not trust CEA President Dan Morris and most were suspicious of his motives. This was brought about by the perception that CEA's words and actions were not congruent, the leaders and members were not aligned and they had a history of being difficult. For example, one respondent who has worked closely with the organization colorfully described the incongruence of CEA's actions with their words:

> I love the CEA. They remind me of Fidel Castro. They say, "OK, everybody needs to be on the north beaches of Havana. All you peasants bring your pitchforks because we're going to be invaded by a million Yankee invaders on Sunday morning at ten o'clock. So, Sunday morning at ten o'clock half a million peasants show up on the beaches north of Havana. Lo and behold the Yankee invaders don't come. But, guess why! It was because you were out there, all half million of you with your pitchforks and what a rousing victory this is!! That's how CEA makes lemonade out of lemons. (Fox, 1991)

Other members of the Task Force felt that the leaders and the members were not aligned on the issues. Some said CEA President Dan Morris had gone out on a limb as a leader of his organization and others saw him totally out of touch with his membership:

> I did say publicly I had a better touch with people because I was working in school and Mr. Morris was not. And when he said, "Teachers think this and teachers think that," I would go back and I'd go to his members at lunch and say what do you think about this. I think he was very misled about his members. (Seymour, 1992)

Past practices and poor perceptions had created a history of negative perceptions among school administrators and school board members who had come to see teacher unions as difficult groups to work with:

> I'll never forget the time the CEA staff person—we were looking at some bill—didn't seem to have a profound affect on districts, teachers, budgets and I just kind of questioned, how does this affect kids? And the CEA person said, "Well, who cares. We'll start representing kids when they start paying dues." (Fox, 1991)

Further, CEA had blocked all previous attempts at tenure reform and they had been a formidable opponent in those political battles. Historically, CEA has had a lot of clout in Colorado and they have freely wielded their power. They had led teacher strikes. They had garnered a larger teacher membership. And yet, Morris felt he could justify CEA's position and past practices:

> We used the legislative process in a very traditional and effective way. And I think that's fine. I don't apologize for that. I think that is appropriate to do. What we did in this session in 1990 is approach it a little differently. We honestly tried to do what was right and what would have been good for all parties in the room. And what had happened in all those other sessions, is that groups or individuals would write bills and try to bring influence in the legislative session without the involvement of those other individuals. I think we utilized our influence a little bit differently in 1990 than we had in the past. (Morris, 1992)

In spite of their limited credibility, CEA did come to the Task Force willing to work for reform and did garner support from the other members because they really wanted to get something done.

> I think many of the negative elements were mitigated because people really wanted to do what was right. . . .We made the choice that we would be willing

> to basically eliminate the word tenure if we could make people understand what we were looking for was reasonable due process. . . .school districts have to establish a set of standards by which teachers know how they will be evaluated and what they will be evaluated on. And therefore, if they are going to be dismissed, it will be based on those standards. . . .I think the association was very successful when we said we were willing to look for some other alternatives. (Morris, 1992)

CEA came to the bargaining table to work toward a compromise solution and did a fairly credible job of not only maintaining their position, but their options became a large part of the solutions established by consensus. The leaders of the Task Force expressed appreciation of the risk they believed Morris took:

> Dan Morris went out on a limb farther than I have ever seen the leadership of an organization go. And I really admired Dan and the leadership in doing that. I don't think they had a real choice to ignore it. I think they could have been successful in killing the Adkins bill. It was a problem that wouldn't go away. (Fitzgerald, 1992)

Teachers were given an opportunity to be part of the solution rather than part of the problem. But by taking a stance that was opposite from any other position they had in the past, this action put the CEA leadership in a precarious position with the CEA membership:

> It was high risk. They had a lot of skin in this game. Because they could lose their jobs. . . .The interesting part is that it isn't that he [Dan] let it happen, how could he do it? It was the right thing to do. No teacher was really gaining anything from the bogeyman tenure. Except a false sense of security . The school could still get rid of you. It just cost you a fortune to get it done. It was a painful process. A lot of people had big fights about it. It didn't do you any good as a teacher to have people in the classrooms who had bad reputations. It

would make you mad as a teacher if the person next door to you wasn't doing the job. And you'd be as mad about tenure as I would be outside the system. I think what Dan Morris finally did was hold a view that we were now in 1990 instead of 1950 and it was time to change. And so he deserves some credit, a huge amount of credit for being able to get past that. (Tipton, 1992)

So, we can see that the CFT and the CEA differed only slightly in their positions on tenure reform. In spite of the perception that CEA would block the process at every turn, evidence exists that CEA did not differ very much from the positions held by CASE and CASB as well. Fitzgerald summarized the positions of the teachers and the administrators as they came to the Task Force:

> All of the people were representing the party line. But they were also individuals. Individually, they were all over the place and constantly wearing different hats. There were school board members that were willing to go farther than CASB was. I think the leadership of CEA has a tendency to be more liberal than the membership was. I don't the leadership in any of those organizations felt comfortable speaking for the organization. Therefore, they had a tendency to fall back on the original, traditional party lines. I think CASE would have still come to the table, but I think that they felt they really didn't have any need to compromise. They felt that they had the momentum behind them and that if they didn't succeed this year, they would next. (Fitzgerald, 1992)

Business and parents were represented on the Task Force because they believed that tenure was a significant block to school reform. They wanted to streamline the process by adding unsatisfactory performance as a reason for dismissal, they wanted regular evaluations with a remediation process, and they wanted streamlining of the hearing and appeals process. Parents wanted school districts to develop the standards for satisfactory performance, annual evaluations of personnel, a definition of

unsatisfactory performance, and to be included in the evaluation process. A confidential memo to Governor Romer from Joy Fitzgerald dated February 4, 1990, gives some indication of the position the Governor's Office took in the process. The memo suggested the following:

- Get rid of the word tenure. Substitute notion of fair employment practices.
- After a 3-year probationary period, district must establish just cause to dismiss a teacher. Just cause includes unsatisfactory performance.
- Consider requiring a district to give a teacher a reasonable opportunity to remediate poor performance before dismissal.
- Streamline the process for teachers to challenge grounds for dismissal. Hearing is directly to the board. Board must make findings of fact and enter a final decision of dismissal or retention.
- Decision of the board is appealable to a three-person tenure commission. Appeal of tenure commission would lie to court of appeals. Only grounds for appeal would be that commission did not follow process required in the law. (Rule 106).
- Give districts the discretion to adopt a performance based salary schedule for all teachers. Placement on salary schedule would be tied to performance evaluation process. (Fitzgerald, 1990c)

In spite of the partisan politics that are typically such an integral part of policy making, the special interest groups appeared to have a great deal of respect for the Governor and spoke of his ability to see the issues clearly and treat them fairly. Although all agreed that Governor Romer was the most powerful actor in this issue, it was clear that everyone respected, not only his position, but the man himself. None of the respondents nor members of the media in the data collected for this study ever made a disparaging remark about the Governor of Colorado.

Problem Definition

Those who have researched policy formulation by the federal government have found that problem identification and definition rarely occurred. In fact, the experts have suggested reality is more like the coupling of problems and solutions in the policy stream in the "Garbage Can Model" rather than a problem-solution model (Cohen, March & Olsen, 1972; Kingdon, 1984; Lindblom, 1959; Mazzoni, 1991).

> In contrast to a problem-solving model, in which people become aware of a problem and consider alternative solutions, solutions float around in and near government, searching for problems to which to become attached or political events that increase their likelihood of adoption. These proposals are constantly in the policy stream, but then suddenly they become elevated on the governmental agenda because they can be seen as solutions to a pressing problem or because politicians find their sponsorship expedient. (Kingdon, 1984, p. 181)

Weiss (1989) has shown that problem definition

> "serves as the overture to policymaking, as an integral part of the process of policymaking, and as a policy outcome. In each of these roles it seems to exert influence on government action. . . .problem definition is more than the overture to the real action; it is often at the heart of the action (pp. 97-98).

Problem definition is not necessarily clear and locked in at the beginning of the policy process. Weiss suggested that over time problem definitions become clearer and provide a common language for the policy innovators. But Weiss also failed to describe a procedure that resembled Tipton's procedure to gain agreement. Instead she suggested that more problems can arise as a result of continuing discussion over the definition of the problem:

> . . .analysts, advocates, and policy makers continue to argue over problem definition as problems are introduced, evidence considered, solutions debated,

> decisions made, programs implemented, and policies evaluated. At whatever stage a new problem definition gains significant support, it shapes the ensuing action. It legitimates some solutions rather than others, invites participation by some political actors and devalues the involvement of others, focuses attention on some indicators of success and consigns others to the scrapheap of the irrelevant. To reap these rewards, participants in the policy process seek to impose their preferred definitions on problems throughout the policy process. Much policymaking, in fact, is preoccupied with whose definitions shall prevail. (Weiss, 1989, p. 98)

In the interviews with the Task Force participants, each one indicated that going into the process they all had different agendas and different ideas as to what the outcome would be—much as Weiss suggested would be the case. However, as the process evolved, it was the work of the facilitator to keep all ideas on the table and to ensure that all ideas had equal billing. The data and the respondents' description of the process indicate that the coalition was able to put forth all of their concerns in an effort to define the problem to craft a solutions that was satisfactory to all involved. Once the problem was identified, the solution was much easier to construct.

Charts and matrices the group used during the process show the group followed a standard problem-solution model where the problems were identified, clarified, grouped, and prioritized. The Task Force report showed that some problem areas were outside the realm of control of the Task Force. Those were identified and left to be solved in another environment, i.e., the state-wide salary schedule.

After the problem was clearly defined, the solution—a new amendment to House Bill 1159—was constructed. Ideas for solution alternatives were brainstormed, clarified, grouped and prioritized. Once consensus was reached and the best solution was constructed, the solution was written into the bill. It was the decision of the group to rewrite the bill from the enacting clause down. The respondents all agreed that

because the group had the power and authority to make the decision, the bill was agreed to by everyone. All solutions were new and the evidence suggests that the group did not jump to conclusions or accept previously proposed solutions without first clarifying the problem and then constructing the solution to each part of the problem.

It is important to recognize that the process involved humans, with natural human tendencies and with individual levels of trust during the process. Although consensus was achieved, this does not necessarily mean that the group was in 100% agreement to everything contained in the new amendment.

> I don't know that every member of the task force had a commitment to coming up with a consensus product. . . .Although the teachers kept saying you don't have any chance of winning, they kept posturing that they could either that year or the next year. (Fitzgerald, 1992)

Part of the charge to the committee from the Governor on February 5, 1990, was to ensure that the Task Force had reached consensus on a policy they could all live with. In their report back to the Governor, Bracken and Tipton have assured the Governor that the group had completed the assignment they were given. The credit for this work, however, largely goes to the work of Tipton as facilitator in the consensus process. Each member of the coalition agreed that consensus, or general agreement, had been reached at the conclusion of the Task Force's work.

Tipton controlled the process. He set ground rules, and he assigned the facilitators to the groups. Tipton's role was to get group agreement on the policy. If discussion got bogged down in certain areas, he would ask people to help him resolve the issue. The process was a relatively simple one. First, Bracken, Tipton and Fitzgerald met with all of the special interest groups to find out their stand on the issues of tenure.

Before we started, we met with. . .a variety of the stakeholders to talk about

what their view was. I met with. . .Dan Morris, Phil Fox, Shelly because I wanted to know. . .what their views were before I went in. So I had one on one meetings. . .to structure what I thought were going to be parameters of how much involved or less involved I was depending on how close in consensus people were. So I could take the discussion off the issue hot button and confine it to the issue. (Tipton, 1992)

Defining the problem and finding areas of compromise seemed to be critical to the success of the process:

> To get people to get started right on task, John and I met with everyone who had an interest at the table and we met with Jeanne Adkins to try to tease out what the issues were going to be. We were trying to find out what were the areas of compromise and what were the hot buttons for everyone. (Fitzgerald, 1992)

Second, the groups were also asked to submit a written proposal of their positions.

> We also asked each interest group to submit a written statement, whether it was a position paper or even to go so far as to submit a proposal for legislation which we shared with the whole group so that people were starting with the same kind of information. (Fitzgerald, 1992)

Third, Tipton prepared a chart indicating the categories of the issues and the stance that each group had taken in regards to the 1967 law and Adkins' bill currently before the House of Representatives.

> John showed you the matrix. We figured most issues emerged from our interviews with people before the retreat. They let us know what the components were that we were going to have to cover. And where the parties were. And I guess at that level we knew what the position of the members of the task force was. We said these are the issues that will be easy and these are the issues we are going to have to struggle with. We asked each party in the

interviews to give us realistically their bottom line. Give us where you really are. There was still some posturing but I think they basically gave us a realistic view of what their positions were. (Fitzgerald, 1992)

By preparing these positions ahead of time, each group had a chance to see graphically where the other groups stood (Tipton, notes).

> And what we did was define. . .the objective. . . .It was to make sure we had in the classroom, teachers who were competent, doing the job, while protecting some academic freedom they had and at the same time providing some due process. . .and this required a lot of talking and we did it over a two day period. . . . (Tipton, 1992)

The bill had been loaded into a computer and they projected the language of the bill on a large overhead screen where everyone could read it, and easily change it and rewrite it. They took everything out of the bill below the enacting clause (Adkins, 1990; Difford, 1991; Tipton, 1992).

> We started out with what we knew nobody liked. Then we started taking it apart and finding out what everybody wanted. The way we did that is we broke into groups and with flip charts in each group and a facilitator in each group, worked through what we saw as the problems and what goals we wanted to achieve, how we thought we could achieve those, what kind of protections we were trying to build in and different views. We put all those up on an overhead screen and then we started trying to find commonalties. It was kind of like putting a puzzle together. People would say, I don't like this and I do like this. Basically, built consensus almost word for word—once we agreed on what the concepts were. But we did it in small groups first. And then we took the small groups and I acted as the facilitator for the large group to bring together all the different ideas we had. (Tipton, 1992)

Fitzgerald explained the positions of the special interest groups. Teachers, she said,

felt the problem was lack of adequate administrative feedback:

> I think the teachers' position was to give up as little as possible to maintain the status quo. . . .what we think that we have now protects the teachers and we are happy with it. . . .So we will change it as little as possible. . . .Their position is that teachers aren't performing well because they are not getting adequate feedback. If there was a problem, it was the administrators' fault for not giving teachers adequate help. (Fitzgerald, 1992)

Fitzgerald felt the administrators held the strongest position because public opinion was on their side:

> The administrators I think felt that public opinion was on their side. They were at least taking the position [that] the Adkins bill has a chance to pass. Therefore, the only way we are going to support a task force compromise is if you [Task Force] keep most of the Adkins bill in tact. They postured themselves that they were in a much stronger position. They felt they didn't have to deal. (Fitzgerald, 1992)

During this phase of the process, Tipton felt the CFT representative and the CEA representative were on the opposite sides of the issue. The CFT representative was able to maintain her position on the issue of tenure reform, but the CEA leadership began to back off from the agreement. Apparently CEA leadership felt they had not done an adequate job of protecting teachers—especially in the area of academic freedom (Tipton, 1992).

Solution Construction

Each group began with a definition of tenure and then began to define the problem in terms of concept, application and costs. Once they had everybody's view, they had "the whole elephant," i.e., they had a complete definition of the entire problem. The group then began to generate solutions—none of which were contained in Adkins' bill:

> We generated basically all new solutions. . . .Then we began to build a variety of solutions in column A, column B, and column C. We took a couple out of A, a couple out of C and moved B to the backside of that. So we generated probably 99% all new solutions. And we used some models from other places. Some go straight to the court of appeals rather than going through district court. That model is there in other governmental issues. . . .Now what we had to do was go talk to Judge Laurel Kelly who was the judge in the court of appeals at that time and see what kind of a work load this would put on the court of appeals if we created a structure in the statute that way. She was very receptive to it. (Tipton, 1992)

It was the goal of the Task Force to rewrite the bill together on the computer and project the language on the overhead. The reason for this was "to force people to not only buy in to the concepts, but to buy in to the language. So they couldn't say, well, I didn't really think that's what that meant" (Tipton, 1992). This particular part of the process bothered some of the teachers who felt the language was difficult to understand or may have implications they, as laymen, could not see. At certain points, the emotions began to build and people began to dig their heels in to avoid commitment to things they did not understand.

> I think, I want to be perfectly candid, that the greatest amount of animosity and conflict that occurred was because of the involvement with attorneys. I found that attorneys operate from a need to have language very specific and all of the worst outcomes. . . .I told the Governor that I would never forgive him for locking me up for two days with fifteen people and eight of them were attorneys. And I say that because I really believe that because attorneys want to write all of the lines and all of the words and have it all come out perfectly. I think that created some of the problem in the system. And I understand it because that is what attorneys are supposed to do. (Morris, 1992)

Not only was the content of the bill at stake, but the consensus process had to be maintained and the structure needed to be kept intact to keep the purpose of the group in focus.

"I controlled it. There was a very significant amount of structure I put on it to make sure it didn't slip away" (Tipton, 1992). Tipton wanted to keep the focus on solutions and to avoid emotional issues that could break the groups apart. Initially the members were speaking primarily for themselves in the process. By the end of the weekend, however, the consensus process had worked well enough that people were speaking not only for themselves, but for their constituents as well. As the facilitator of the group, Tipton felt he was more effective because he did not have a vested interest in the decisions of the group. Therefore, his objectivity worked in his favor and the group's favor (Tipton, 1992).

Tipton was asked how he handled conflict resolution:

> I hate to admit this, I had a couple of plants in the audience. I had identified, after I sat down with everybody, certain people I thought would be listened to and wouldn't be taken as representing themselves and not looking at the state as a whole. I talked to them ahead of time about if this particular issue comes up, there will be particular individuals will have views that they are not going to back off from. I will need you to help me resolve it, I may call on you and ask you what you think about it. Then it would be more meaningful than just getting into a debate where people were polarized on a topic. (Tipton, 1992)

Tipton was asked if there was a high level of trust during the process:

> I think there was. I think they felt like all their views were heard. I think part of why it started to disintegrate is there was such a high level of trust that people couldn't believe it. All of a sudden they started thinking, wait a minute, what happened here?. . .I think part of it was that we brought in all the alternatives and people couldn't believe they really had that much input. (Tipton, 1992)

Consensus, persuasion and a little bit of bargaining characterized this problem definition phase of the process. The problem definition process involved gathering information, presenting the positions of each special interest group to the whole group and finding areas of agreement to write the bill. Once the group had a clear picture of the problem, new and more creative solutions were generated that had not been thought of before. This became the basis of the new draft of the bill. Once the group had reached agreement on the new policy, they planned to present this carefully structured proposal to the legislators.

Human nature being what it is makes it very difficult to completely trust those who have always been on the opposite sides of any issue. The recommendations to the Governor did not come out of the Task Force easily, however. The CEA called off the deal late Sunday night indicating they could not sell the policy to their membership.

Fitzgerald described the situation from what the Governor had told his staff about the situation:

> I never did understand the problem. Saturday night we left with an agreement. Sunday night Tony Rollins [Executive Director of Colorado Education Association] called the Governor to say we don't have a deal any more. I can tell you this because the Governor told us we don't have a deal any more. Pretty much was that our representatives gave away too much and they didn't really know what they were doing. . .We could never sell this to our membership. I think the Governor. . .said, I won't back out as much as I value the relationship, it was a done deal. It wasn't a threat, but it was you can't rely on our friendship and good will as a way to get out of it. He reconvened the group on Monday and tried to address CEA's concerns. The Governor said I'm not going to unilaterally change what was the consensus of the group, but I will reconvene the Task Force and see if we can address some of these issues that have arisen since you have had a chance to talk about it and see if we can reach

> consensus. . . .He was really trying to stay out of it and remain neutral. . . .He saw his role as keeping people at the table and didn't feel he could do that role real effectively if he had taken a position. He would be perceived as either for one side or against it. He really felt that was the best he could do and he had to apply this to different sides at various times. To make people stay and talk about it and persuade people that consensus was the best way to go. (Fitzgerald, 1992)

While the Governor tried to remain as neutral in the situation as he could, he was, however, committed to the work of the Task Force and had already given them full autonomy to make the decision. He had continued support from the CEA, support he would not want to risk if he did not have to. From this perspective it was apparent that when he weighed the two, the better option was to stay with the Task Force and to get the CEA to recommit if that was possible.

> We had an agreement and then some of the school unions had it starting to fall apart. . . .They said, "We really can't do it this way, I'm not sure it fits our needs." So then we had a meeting. I talked to the Governor on Sunday night, because he was getting phone calls, we aren't sure we want to agree to it, and lobbying started. We had a meeting in his office, I think it was Monday at noon. The thing I remember about it was that we brought in all of these pizzas and basically saying you are going to be on board or you aren't but you aren't going to do this to us. (Tipton, 1992)

Apparently the idea of bringing everyone back together was a good one because, even though Dan Morris was committed, he needed more information about parts he did not understand:

> What we worked through in the Governor's office. . .was the appeal—how would you go through an appeal process. If the board rejected a fact-finder or a judge advocate, what would be the process and how could it be rejected. . .And

the fundamental argument was, what facts could be used in defense of the teacher? If the hearing officer found for the teacher and that was appealed by the district to the court, could the court hear all the facts of the case or would the court only rule whether the board has the right to hire or fire? And that's what got resolved as I recall in the Governor's office. All the other issues had all been resolved. And that was the area I had trouble with personally because I had no legal background. And yet I was working with individuals with various positions they would like to take who had all of this legal background. And quite frankly we felt at somewhat a disadvantage. (Morris, 1992)

The Governor maintained his position and supported the Task Force by asking them to come back together and recommit to the decision of the group. Tipton facilitated the re-commitment process as well, but it was the Governor who, even in his absence was the guiding force in getting everyone back together.

Respondents indicated that the Governor was clearly the most powerful presence in the process even when he was not physically present. The public, the school administrators, the legislators, the media and even the teachers supported Romer efforts to create a policy that would reform tenure in Colorado. As Adkins (1990) described it, "In the past, I'm not sure the legislators' and the governor's objectives had been the same. This was pure luck." Luck or not, Romer took advantage of his power and the window of opportunity to get the job done.

The Legislative Process

"There were technical corrections and nothing else" (Tipton, 1992).

House Bill 1159 was originally introduced on the floor of the House January 12, 1990, and assigned to the House Committee on State Affairs. The testimony on the bill, which began on February 6, indicated the general attitudes toward the bill. The bill was significantly amended by the State Affairs Committee on February 9 before the Task Force began its work. On February 22 the bill came back to the State Affairs

Committee. Between the first and second reading of the bill, the Tenure Task Force had rewritten the bill and excluded the original amendments from the first reading. Adkins proposed Amendment No. 1 to the committee to strike the State Affairs Committee report dated February 6, 1990, and substitute the new bill (*House Journal*, 1990, p. 685).

Four more amendments were added to the bill, but the changes were only minor changes in the wording of a few lines. Four days later on February 26,1990, the bill had its third reading and final passage in the House on a 63 to 2 vote. The bill went on to the Senate (*House Journal*, February 26, 1990).

On February 26, 1990, the day the House passed the bill, House Bill 1159 was introduced on the floor of the Senate and assigned to the Senate Education Committee. On March 12, 1990, House Bill 1159 had its first reading in the Senate. Again the committee amended the bill, but most of the changes were minor changes in wording. On March 19, 1990, the bill passed through its second reading. The bill was again amended by Senator Considine to change specific wording, but not specific content. The bill was then placed on the calendar of the Third Reading and Final Passage. However, the report from the Committee of the Whole included:

> On motion of Senator Meikeljohn, the Report of the Committee of the Whole, as amended was adopted and, a majority of all members elected having voted in the affirmative the following action was taken:
>
> . . .H.B. Nos. . . .90-1159 as amended, . . .declared passed on Second Reading (*Senate Journal*, March 19, 1990, p. 615).

Thus, House Bill 1159 was declared passed on Second Reading. The Senate Journal shows the Third Reading and Final Passage was done without further debate and the bill passed on a 34 to 0 vote with one Senator being excused. On March 29, Representative Adkins moved for concurrence in the House with the Senate for the amended bill. The motion passed 63 to 2. On April 16, the Speaker signed the bill and

the President of the Senate signed it on April 17 at which time the bill was sent to the Governor for his signature. The bill was signed into law on April 24, 1990 and was to be implemented beginning July 1, 1990 (*House Journal*, 1990; *Senate Journal*, 1990).[2]

Insights into the Policy Formulation Process

In the past, policy formulation models described the policy process in the following four-steps: 1) general awareness a problem exists, 2) generation of alternatives to solve the problem, 3) formulation of a solution, and 4) justification of the solution. The experts described this process as one that is repeated frequently with frustrating results (Lindblom, 1959) and that the process finds the solutions first and then attaches these solutions to a problem that is only vaguely defined (Brewer & deLeon, 1983; Cohen, March, & Olsen, 1972; Kingdon, 1984; Polsby, 1984). The study of House Bill 1159 allows for speculation on a problem definition policy formulation process which may be implemented at the state level.

Evidence from this study suggests the success of this model depends on several critical aspects which should be identified and explained.

Problem Awareness

First, data collection about the problem should be completely and thoroughly analyzed. Information obtained at this point should include both rational and emotional issues, costs in time and money, past and present local and national policies in the same area, and public perceptions about the problem. It is critical that the data collectors determine what are the real issues and what are the perceived issues in preparation for the Problem Definition phase. If necessary and appropriate statistical data analysis strategies should be used to determine the extent of the problem and the degree to which the problem can be reduced or eliminated. Second, the disinterested

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[2]For a complete explanation of the entire bill, its amendments, and testimony on the bill, see Elrod, 1993.

facilitator must have demonstrated, exceptional skills in conflict resolution and consensus decision making. Although this person will develop a clear understanding of the problem and the possible solutions, the outcome of the policy should have no visible impact on this facilitator in order to avoid a conflict of interest. The facilitator must also have the support of the Executive Officer. Third, the task force members must include all of the special interest groups in order to avoid excessive lobbying against the policy when it returns to the legislature. It is the special interest groups which can best identify and clarify the problem in order to bring about more comprehensive solutions to the problem.

Problem Definition

First, the operating procedures or norms of the group should be clearly established before the group begins working in order to ensure group commitment to procedures, decisions and outcomes. Consensus decision making must be agreed to at the outset. Second, the group needs to know the parameters of their power and influence. In this study it was clear the group could address most of the issues, but not necessarily all of them. Third, the entire group should have a clear understanding of all of the issues which concern the special interest groups. Those issues should be included in the definition of the problem. Fourth, through accurate data analysis, the groups should be able to state the outcome in either quantifiable terms or in language that clearly and simply states what the results of the solutions will be.

Solution Construction

First, the objective or the criteria for selecting the solutions should be established before alternatives are generated, but not in order to impede the brainstorming process. The criteria will be used later to evaluate the alternatives, but brainstorming should be a free-flow of ideas without judgment from members of the group. Second, the advice and counsel of the experts in the legal and legislative process is invaluable in determining creative solutions within the parameters of the

statute. Once the problem is clear, more creative the solutions can be constructed because the entire group understands the total problem. Third, group consensus and conflict resolution strategies are the best way to ensure group commitment to the final solutions. Instances of trade-offs within the process should be avoided because this process invariably leaves some special interest groups dissatisfied with the process and the outcome which will lead to the lobbying process more quickly.

Legislative Process

First, maintenance of the coalition during the legislative process is critical. This job should be the responsibility of the Executive Officer and the facilitator. In the process of formulating House Bill 1159, the coalition did begin to fall apart. Without the intervention of the Executive Officer and the facilitator, all would have been lost. Second, once the policy passes back into the hands of the legislature, the Task Force has little influence on the process other than to testify before the committee as to its advantages and disadvantages. There is no guarantee that the legislature will not make significant changes with the policy. However, the bill itself should be reflective of a better-than-average solution to the identified problem. In the case of House Bill 1159, some felt the bill did not go far enough and that changes would still need to be made in the future (Adkins, 1990; Difford, 1992; Fitzgerald, 1992; Fox, 1992; Morris, 1992). These limitations, however, were not enough to defeat the bill because the legislature understood both the fragility of the coalition's commitment to the bill as well as the strengths of the bill. Third, once the legislators hear testimony on the bill, changes, as in the case of House Bill 1159, would probably be little more than editorial in nature. Legislators, with the help of the policy entrepreneur and their colleagues who assisted in drafting the bill, should be able to see that the bill addresses most of the issues that the public and their constituents are concerned about.

Conclusions

This model of policy formulation offers four advantages over the other models discussed in this study. First, problem definition is more specific and clear. The clarity of problem definition is crucial to building effective solutions—a process reversed in the other models. Second, the solutions directly address the problem identified. Although the solutions may not necessarily solve all aspects of the problem, there is clear rationale as to why those things needed to be left out, or they are outside of the parameters of power given to the task force. In previous models after solutions were generated, problems were then found and attached to the solutions—a process this model attempts to reverse. Three, consensus decision making seemed to bring about greater commitment to the policy in the end. The great advantage this offers is the reduction of lobbying by the special interest groups. They had, in this process, become part of the solution rather than a continuation of the problem. Fourth, the legislative process would be more efficient. House Bill 1159 was postponed approximately two weeks to allow for the Task Force to complete its work on the bill. In comparison to the seven attempts in eleven years to achieve a tenure reform bill, this was a very short period of time to bring about resolution to this complex problem. If the Task Force could have been brought together two or three months earlier in anticipation of the session, perhaps no delay in legislative time would have been necessary.

This model of problem definition is speculative and is based on the past legislative practices cited in the study, the examination of policy formulation theory and the exhaustive study of the formulation of Colorado's teacher tenure reform bill. The success of this model in policy formulation, as in any policy implementation, depends on the attitude of the key players and their willingness to use the model as a new process of policy formulation.

APPENDIX

Problem Definition Policy Formulation Model

Phase	Characteristics
Problem Awareness	Problems arise on the policy agenda
	Policy entrepreneur selects a problem and brings it to the top of the policymakers' agenda
	Executive Officer creates a task force of legal experts, legislators, and special interest group representatives to form a coalition to study the problem and formulate the policy
	Data about the problem are gathered by various members of the task force and independent research specialists
	Executive Officer selects a disinterested facilitator who is an expert in conflict resolution and consensus decision making to lead the group
	Policy entrepreneur participates as a member of the group
Problem Definition	Facilitator convenes the task force and establishes the operating procedures for the group
	Executive Officer gives the group their charge in making the policy which includes the parameters of their power and the expected outcome
	Special interest group representatives present the group with their position on the problem and the issues they see are most critical
	The problem is explained, data gathered about the problem is analyzed, discussed and clarified so that the entire group understands all aspects of the problem
	The group determines which parts of the problem they can solve and which parts of the problem are outside of the parameters of their power based on the criteria established by the Executive Officer's charge

Phase	Characteristics
Solution Construction	Group establishes the criteria the solutions must meet to solve the problem defined in the second phase
	Alternative solutions are brainstormed by the group members
	Each alternative is explained and clarified so that all members of the group understand them and their implications
	Legal and legislative experts determine the feasibility of each of the alternatives and assist in finding ways to make the solutions feasible
	Group agrees by consensus on the best solution or combination of solutions to solve the problem
Policy Formulation	Legislators within the group draft the policy which incorporates the solutions agreed to by the group
	Group members review the draft, clarify wording, make changes, and offer suggestions
	Group agrees by consensus to the final draft to be sent to the legislature
Legislative Process	Policy is reviewed by the Revisor's Office and is assigned a number and a committee in the House of Representatives or the Senate depending on the origin of the policy entrepreneur
	Policy entrepreneur shepherds the policy through the legislative process
	Committee hears testimony on the bill, debates the bill, and amends the bill as is necessary
	House and Senate ratify the bill
	Executive Officer signs bill into law

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